

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

JEFFREY M. WILTSE,

Case No. 2:25-cv-00593-RFB-BNW

Plaintiff,

ORDER AND REPORT AND RECOMMENDATION

V.

KRISTINA PICKERING, et al.,

Defendants.

Before the Court is the Court is Plaintiff's Corrected Emergency Motion for Temporary Restraining Order. ECF No. 3. Plaintiff also previously filed an Emergency Motion for Temporary Restraining Order along with his Application to Proceed *In Forma Pauperis*. ECF Nos. 1, 1-1. Because Plaintiff has not yet filed a complaint—which is a prerequisite for seeking injunctive relief—the Court recommends that Plaintiff's Motions be denied.

I. ANALYSIS

The standard for issuing a TRO is the same as that for the issuance of preliminary injunction. *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). The proper legal standard for preliminary injunctive relief requires a party to demonstrate (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest. *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009).

1 Federal courts are courts of limited jurisdiction, limited to deciding cases or controversies.
2 *Scott v. Pasadena Unified Sch. Dist.*, 306 F.3d 646, 654 (9th Cir. 2002). Before seeking injunctive
3 relief, a plaintiff first must file a complaint with the court. *Stewart v. U.S. I.N.S.*, 762 F.2d 193,
4 198 (2d Cir. 1985) (“Only after an action has been commenced can preliminary injunctive relief
5 be obtained.”); *see also* FED. R. CIV. P. 3 (“A civil action is commenced by filing a complaint
6 with the court.”). Not only must there be an operative pleading, but there must be a relationship
7 between the injury claimed in the motion for injunctive relief and the conduct asserted in the
8 complaint. *See Garcia v. Google, Inc.*, 786 F.3d 733, 744 (9th Cir. 2015) (because of a
9 “mismatch” between plaintiff’s claim and dangers she hoped to remedy through injunction,
10 district court did not abuse its discretion in denying injunctive relief).

11 Here, Plaintiff has simply filed (1) an IFP Application, (2) an Emergency Motion for
12 Temporary Restraining Order, and (3) a Corrected Emergency Motion for Temporary Restraining
13 Order. ECF Nos. 1, 1-1, 3. Because Plaintiff has not filed a complaint, there is no case or
14 controversy pending before the Court, and the Court cannot issue injunctive relief. *Pac. Radiation*
15 *Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015) (“A court’s equitable
16 power lies only over the merits of the case or controversy before it. When a plaintiff seeks
17 injunctive relief based on claims not pled in the complaint, the court does not have the authority
18 to issue an injunction.”). The Court therefore recommends that Plaintiff’s Motions be denied
19 without prejudice.

20 The Court provides Plaintiff 30 days to file a proper complaint. Failure to do so may result
21 in a recommendation that his case be dismissed. Because Plaintiff has applied to proceed *in forma*
22 *pauperis*, Plaintiff’s complaint must survive screening before the Court can consider any motions
23 for injunctive relief. *See* 28 U.S.C. § 1915(e)(2). The Court will issue a decision on Plaintiff’s IFP
24 application in conjunction with screening the complaint.

25 **II. CONCLUSION**

26 **IT IS THEREFORE RECOMMENDED** that Plaintiff’s Emergency Motion for
27 Temporary Restraining Order (ECF No. 1-1) and Corrected Emergency Motion for Temporary
28 Restraining Order (ECF No. 3) be **DENIED**.

IT IS FURTHER ORDERED that Plaintiff must file a complaint by **May 2, 2025**.

Failure to do so may result in a recommendation that the case be dismissed.

NOTICE

This report and recommendation is submitted to the United States district judge assigned to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation may file a written objection supported by points and authorities within fourteen days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991).

DATED this 2nd day of April 2025.

Brenda Weksler
BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE